



AGENDA DATE: 12/06/00
AGENDA ITEM: 8I

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

PETITION OF CAMBRIAN COMMUNICATIONS,)
LLC FOR AUTHORITY TO FORM A HOLDING)
COMPANY AND TO ENTER INTO CERTAIN)
FINANCING ARRANGEMENTS)

TELECOMMUNICATIONS

ORDER OF APPROVAL

DOCKET NO.: TM00110855

Colleen Foley, LeBoeuf, Lamb, Greene & MacRae, LLP, on behalf of Cambrian Communications, LLC

James Murphy, Division of Telecommunications; Mark C. Beyer, Julie Huff, Office of the Economist, on behalf of the Staff of the Board of Public Utilities

BY THE BOARD:

Cambrian Communications, LLC ("Cambrian" or "Petitioner"), a Delaware limited liability corporation and a public utility subject to the jurisdiction of the Board, filed an application on October 27, 2000, pursuant to N.J.S.A. 48:3-7, N.J.S.A. 48:3-9, and N.J.S.A. 48:2-51.1, requesting authority to: (1) complete a corporate reorganization to form a holding company, and (2) issue long term debt, with the utility assets being pledged to secure the financing.

Petitioner is a competitive local exchange company, authorized to provide competitive local exchange telecommunications services in New Jersey pursuant to the Board's Order of Approval issued on September 12, 2000, in Docket No. TE00020130. Currently, Cambrian does not provide service to customers in New Jersey or in any other state. Cambrian has yet to acquire, build or lease any facilities and it currently does not own, operate or manage any telephone lines in New Jersey or elsewhere.

Petitioner seeks to participate in a reorganization whereby all of the stock of Cambrian Communications, LLC will be transferred to a newly formed holding company, Cambrian Holdings, LLC. The net effect of the reorganization is that Cambrian Holdings, LLC will become the parent of Petitioner.

In conjunction with the proposed reorganization, Petitioner and Cambrian Holdings, LLC will act as co-guarantors of a Loan Facility of up to \$225 million. Cambrian will also borrow from the Loan Facility and use the proceeds to begin the planned build out of its telecommunications network. Of the four initial build out stages, one stage will be located in New Jersey.

Additionally, proceeds from the Loan Facility may be used for working capital and general corporate purposes. By letter dated November 13, 2000, Petitioner filed sealed copies of its Credit Agreement, which detail the terms and conditions of the Loan Facility. Petitioner requested confidential treatment of the Credit Agreement, asserting that the Credit Agreement contained proprietary information of Cambrian and its lender. Petitioner further asserted that the Credit Agreement contained information directly related to the financial position and business offerings of Cambrian and its lender, which could cause harm to either entity if revealed.

By letter dated December 4, 2000, the New Jersey Division of the Ratepayer Advocate filed comments on this matter and indicated that it "does not object to approval of the petition as Cambrian's operations as a wholesale provider of fiber optic services should further assist retail carriers in their eventual provisioning of local exchange service to both residential and business customers in New Jersey, thus creating greater viability for the fruits of competition to take hold in New Jersey."

DISCUSSION

Pursuant to N.J.S.A. 48:3-9, the Board approves financing transactions when it determines that they are made in accordance with law and when it is satisfied that the purpose of the proposed transaction is appropriate. In this case, it is clear that the proposed Loan Facility is to be entered into in accordance with law and that the proposed use of the proceeds associated therewith is appropriate. With respect to the reorganization portion of Petitioner's application, the Board reviews such transactions pursuant to N.J.S.A. 48:2-51.1 to determine if the holding company formation will have an adverse effect on competition, rates, employees or on Petitioner's ability to provide safe, adequate and proper utility service. As Petitioner does not currently own or lease facilities by which it may provide service, the Board is satisfied that the proposed reorganization will not have an adverse impact on rates or competition. With respect to employees, it is clear that the reorganization will not alter the status of Cambrian's employees. Moreover, while there is no guarantee in this regard, especially given the competitive environment in which Petitioner operates, the Board is satisfied that the proposed transactions will not have an adverse impact on Petitioner's operations in New Jersey or its ability to provide safe, adequate and proper service.

The Board, after investigation, having considered the record submitted in this proceeding, being satisfied with the actions proposed to be taken by Petitioner as indicated above and finding that the transactions are to be made in accordance with law and are in the public interest, and approving the purposes thereof, HEREBY AUTHORIZES Cambrian Communications, LLC to issue and transfer stock to form a parent holding company, to pledge its assets to secure the Loan Facility, and to issue long-term debt pursuant to the Loan Facility. With regard to Petitioner's request for confidential treatment of the Credit Agreement, the Board FINDS that the Petitioner has not provided sufficient documentation that all the information contained within the Credit Agreement merits protection from public disclosure. Therefore, the Board DIRECTS Petitioner to file a Motion for a Protective Order with a brief and affidavits in support of its request that the entire Credit Agreement be accorded confidential treatment. Said motion is to be filed within fifteen (15) days of receipt of this Order. If said Motion is not filed within the required timeframe, the Credit Agreement will not be accorded confidential treatment. However, pending receipt and disposition of the Petitioner's Motion, the Board will accord the Credit Agreement confidential treatment and maintain it under seal.

This Order is issued subject to the following provisions:

1. Notwithstanding anything to the contrary in the documents executed pursuant to the financing arrangements approved hereunder or other supporting documents, a default or assignment under such agreement does not constitute automatic transfer of Petitioner's assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq., where applicable.
2. This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of the tangible or intangible assets now owned or hereafter owned by Petitioner.
3. This Order shall not affect, or in any way limit, the exercise of the authority of this Board, or of this State, in any future petitions or in any proceeding with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or any other matters affecting the Petitioner.

DATED: December 6, 2000

BOARD OF PUBLIC UTILITIES
BY:

[SIGNED]
HERBERT H. TATE
PRESIDENT

[SIGNED]
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

[SIGNED]
FRANCES L. SMITH
BOARD SECRETARY